

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANTONIO LEE MIXON,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS et al.,

Defendants.

2:16-cv-02490-RFB-VCF

ORDER

I. DISCUSSION

On October 24, 2016, Plaintiff initiated this case by submitting a civil rights complaint pursuant to 42 U.S.C. § 1983 but did not file an application to proceed *in forma pauperis* or pay the filing fee for a civil action. (ECF No. 1, 1-1). On October 28, 2016, this Court issued an order directing Plaintiff to file a fully complete application to proceed *in forma pauperis* or to pay the full \$400 fee for filing a civil action within thirty (30) days. (ECF No. 2). On November 2, 2016, Plaintiff submitted page 3 of the application to proceed *in forma pauperis* (i.e. the penalty of perjury page). (ECF No. 3 at 2).

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, Plaintiff must complete an application to proceed *in forma pauperis* and attach both an inmate account statement for the past six months and a properly executed financial certificate. Plaintiff has not submitted an application to proceed *in forma pauperis*, a properly executed financial certificate, or an inmate account statement. (See ECF No. 3). The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but will not file it until the matter of the payment of the filing fee is resolved. Plaintiff will be granted one final opportunity to cure the deficiencies of his application to proceed *in forma pauperis*, or in the alternative, pay the full filing fee for this action. If Plaintiff

1 chooses to file a new application to proceed *in forma pauperis* he must file a fully complete
2 application to proceed *in forma pauperis*. If Plaintiff files another incomplete application to
3 proceed *in forma pauperis*, the Court will dismiss the case in its entirety, without prejudice, to
4 file a new case when Plaintiff is able to acquire the necessary documents to file a complete
5 application to proceed *in forma pauperis*.

6 **II. CONCLUSION**

7 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court SHALL SEND
8 Plaintiff the approved form application to proceed *in forma pauperis* by a prisoner, as well as
9 the document entitled information and instructions for filing an *in forma pauperis* application.

10 IT IS FURTHER ORDERED that on or before Friday, January 6, 2017, Plaintiff shall
11 either: (1) file a fully complete application to proceed *in forma pauperis*, on the correct form
12 with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full
13 \$400 fee for filing a civil action (which includes the \$350 filing fee and the \$50 administrative
14 fee).

15 IT IS FURTHER ORDERED that, if Plaintiff's next application to proceed *in forma*
16 *pauperis* is incomplete, the Court will dismiss the case, without prejudice, for Plaintiff to file a
17 new case when he is able to acquire the necessary documents to file a complete application
18 to proceed *in forma pauperis*.

19 IT IS FURTHER ORDERED that if Plaintiff does not timely comply with this order,
20 dismissal of this action may result.

21 IT IS FURTHER ORDERED that the Clerk of the Court shall retain the complaint (ECF
22 No. 1-1), but shall not file it at this time.

23
24 DATED: This 5th day of December, 2016.

25 

26 United States Magistrate Judge
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